

BEFORE THE ETHICS COMMISSION
FOR THE STATE OF TENNESSEE
AT NASHVILLE

IN RE: JOHN PETERSON,

Respondent.

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No. 08-29

ASSESSMENT ORDER

This matter came on to be heard by the Tennessee Ethics Commission ("Commission") on May 27, 2008 at its regularly scheduled meeting upon presentation of documentation indicating Respondent failed to timely file a 2008 statement of disclosure of interests ("Statement") as required by Tenn. Code Ann. §§ 8-50-501 - 8-50-502 .

FINDINGS OF FACT

Documentation on file with the Commission shows, and the Commission finds, as follows:

1. Jurisdiction. Respondent, Mr. John Peterson, was a state official in 2008 and was thus required to file a Statement as required by Tenn. Code Ann. §§ 8-50-501-502.
2. Duty to File. Mr. Peterson had a duty under the Tennessee Comprehensive Governmental Ethics Reform Act of 2006 ("Act") to file a Statement for 2008. This Statement was due to be filed no later than January 31, 2008.
3. Notice of violation. On March 11, 2008, the Commission sent Mr. John Peterson a warning letter for failure to file a Statement by January 31, 2008. On April 2, 2008, the Commission sent Mr. Peterson a notice of informal show cause hearing which stated the Commission intended to consider, at its May 27, 2008 meeting, assessment of civil penalties against Mr. John Peterson for failure to file his 2008 Statement. On April 3, 2008, Mr. Peterson filed a Statement for 2008.
 - a. The notice set forth the allegations, the maximum amount of civil penalties that could be assessed, the date, place, and time of the meeting, and informed Mr. Peterson of his opportunity to participate in an informal proceeding at the meeting either by appearing personally or by submitting a sworn statement and documents.
 - b. In response to the notice, the Commission received an affidavit from Mr. Peterson explaining his delinquent filing was as a result of clerical error and in no way intentional.

4. Hearing. Mr. Peterson appeared at the meeting by affidavit, the summary of which is provided above.

CONCLUSIONS OF LAW

The Commission concludes that Mr. John Peterson had an obligation under the Act to file a Statement for 2008 before January 31, 2008, and failed to do so. The Act authorizes the Commission to administratively assess a civil penalty of not more than twenty-five dollars (\$25.00) per day up to a maximum of seven hundred fifty dollars (\$750.00) if a state official fails to timely file a Statement within five (5) days of receipt of an assessment letter. Tenn. Code Ann. § 3-6-205 (a)(1)(A).

The Commission considers Mr. Peterson's failure to file his 2008 Statement to be significant. The Commission has taken steps through training, website postings, and notices to help persons required to file Statements to come into compliance with the Act. More than a year and a half has passed since the filing requirements of the Act became effective. The Commission finds that the maximum penalty is appropriate in this case.

This assessment cannot become final until after Respondent has been afforded an opportunity for a notice and a hearing. Tenn. Code Ann. § 3-6-107(8). Respondent's failure to participate in the informal assessment process is without prejudice to his rights to a contested case hearing under the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 - 4-5-325.

ORDER

It is therefore ORDERED that a civil penalty in the amount of seven hundred fifty dollars (\$750.00) is assessed against Mr. John Peterson for failure to file a Statement.

It is further ORDERED that the Executive Director shall issue this order for the Commission and file it in the Commission's offices.

It is further ORDERED that the Executive Director shall cause to be provided to the Respondent, by either personal service, certified mail return receipt requested, or overnight delivery, a copy of this order, and notice of the following:

Respondent has the right to initiate a contested case proceeding by filing with the Commission, within thirty (30) days of this order, a written request for a contested case hearing in a form that shall be set forth in the notice; and

That in the event of failure to timely file a petition to waive, reduce, or contest the penalty, or a petition for a contested case hearing, the order shall become final and may form the basis for legal action to collect the civil penalty.

It is further ORDERED that this order shall not become final until thirty (30) days after receipt by, or service on, Mr. John Peterson of this order and the notice of rights set forth above.

SO ORDERED.

Issued this 10th day of June, 2008

TENNESSEE ETHICS COMMISSION

By: _____
Bruce A. Androphy,
Executive Director